

REMARKS

In the final Office Action, the Examiner continues to reject claims 1, 5-8, and 10-11 under 35 U.S.C. § 103(a) as unpatentable over ALDRED et al. (U.S. Patent No. 5,719,942) in view of TUROCK (U.S. Patent No. 6,243,373); and rejects claims 2-5 and 9 under 35 U.S.C. § 103(a) as unpatentable over ALDRED et al. in view of TUROCK, and further in view of RONEN et al. (U.S. Patent No. 5,905,736). Applicants respectfully traverse these rejections. Claims 1-11 are pending.

Rejection under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK

Claims 1, 5-8, 10, and 11 stand rejected under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK. Applicants respectfully traverse this rejection.

Independent claim 1 is directed to a method for media communication over a hybrid network that includes a circuit switched network and a packet switched network. The method includes receiving a request for a media communication by a resource management processor connected to the hybrid network; determining an amount of resources in the hybrid network necessary to obtain a requested quality of service; allocating necessary resources to provide the requested quality of service on the hybrid network; and releasing the necessary resources upon termination of the media communication. ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, ALDRED et al. and TUROCK do not disclose or suggest determining an amount of resources in the hybrid network necessary to obtain a requested quality of service. The Examiner appears to rely on Fig. 9h and col. 1, line 52, to col. 46, line 48, of ALDRED et al. for disclosing determining an amount of resources in a

network necessary to obtain a requested quality of service (final Office Action, pp. 5-6).¹ The Examiner also admits that ALDRED et al. does not disclose a hybrid network that includes a circuit switched network and a packet switched network (final Office Action, p. 6). The Examiner relies on TUROCK for allegedly disclosing the hybrid network (final Office Action, pp. 6-7). Applicants strenuously object to the Examiner's piecemeal examination of the above feature of claim 1.

Claim 1 does not recite "determining an amount of resources in the network necessary to obtain a requested quality of service" and "hybrid network." Rather, claim 1 specifically recites "determining an amount of resources in the hybrid network necessary to obtain a requested quality of service." In other words, the feature of claim 1 that includes "determining an amount of resources in the hybrid network necessary to obtain a requested quality of service" cannot be separated from "hybrid network," as the Examiner has done in his piecemeal examination of claim 1. Instead of addressing this specifically-recited feature of claim 1, the Examiner breaks the feature down into illogical parts by pointing to portions of one reference for allegedly disclosing "determining an amount of resources in the network necessary to obtain a requested quality of service" and to unrelated portions of a second reference for allegedly disclosing a "hybrid network." Such attempts at reconstructing Applicants' claims are clearly impermissible.

Nevertheless, Fig. 9h of ALDRED et al. depicts a flow chart for processing a request for support (col. 3, lines 33-34). ALDRED et al. discloses that an intermediate node receives a request that includes quality of service parameters required for a

¹ Col. 1, line 52 to col. 46, line 48, of ALDRED et al. corresponds to almost the entire ALDRED et al. disclosure. In the final Office Action dated January 6, 2009, the Examiner's citation reads as follows: "See Flow chart 9h; Col. 1, lines 52 plus."

communication to the destination node and determines whether the request can be supported (col. 20, lines 25-34). To make the determination, the intermediate node determines which adjacent node needs to be contacted to reach the destination node and determines whether the available communication resources to the adjacent node are sufficient to support the request (col. 20, lines 34-39). Thus, ALDRED et al. merely discloses the determination of whether adequate resources exist between one intermediate node and an adjacent node. This section of ALDRED et al. does not disclose or suggest determining an amount of resources in a hybrid network (that includes a circuit switched network and a packet switched network) necessary to obtain a requested quality of service, as recited in claim 1.

ALDRED et al. is directed to establishing a communication channel between a source node and a destination node (Abstract). As indicated above, ALDRED et al. discloses determining whether adequate resources exist between one intermediate node and an adjacent node (see, for example, col. 20, lines 34-39). ALDRED et al. does not disclose or suggest determining an amount of resources in a hybrid network (that includes a circuit switched network and a packet switched network) necessary to obtain a requested quality of service, as recited in claim 1.

The disclosure of TUROCK does not remedy the above deficiency in the disclosure of ALDRED et al. That is, TUROCK does not disclose or suggest determining an amount of resources in a hybrid network (that includes a circuit switched network and a packet switched network) necessary to obtain a requested quality of service, as recited in claim 1. TUROCK is directed to a system that provides audio information over a computer network (Abstract). While TUROCK discloses a hybrid network (see, for

example, Fig. 2), TUROCK does not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, as recited in claim 1.

TUROCK discloses the establishment of a call from a source to a destination over a network that includes a PSTN and the Internet (Fig. 2). TUROCK discloses the steps involved in establishing the call at col. 6, line 29 to col. 7, line 17. TUROCK does not disclose or suggest that the process for establishing a call over a network, which includes a PSTN and the Internet, includes determining an amount of resources in the hybrid network necessary to obtain a requested quality of service, as recited in claim 1.

Since ALDRED et al. and TUROCK do not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, ALDRED et al. and TUROCK cannot disclose or suggest allocating necessary resources to provide the requested quality of service on the hybrid network, as also recited in claim 1.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claims 5 and 6 depend from claim 1. Therefore, these claims are patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Moreover, these claims are patentable over ALDRED et al. and TUROCK for reasons of their own.

For example, claim 5 recites the method for media communication of claim 1, further including determining the requested quality of service by parsing a field from the request for a media communication. ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, do not disclose or suggest the above feature of claim 5. The Examiner does not address this feature in the rejection of claim 5 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK. Thus, the Examiner has not met the initial burden of establishing a *prima facie* case of obviousness with respect to claim 5.

To make a proper rejection under 35 U.S.C. § 103(a), the Examiner should set forth in the final Office Action (1) the relevant teachings of the prior art reference(s) relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate, (2) the difference or differences in the claim over the applied reference(s), (3) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and (4) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification. See M.P.E.P. § 706.02(j). With respect to claim 5, the Examiner fails to address claim 5 with respect to the ALDRED et al. and TUROCK references. Accordingly, Applicants respectfully request that the rejection of claim 5 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claim 6 recites determining the requested quality of service from profile information associated with a caller of the media communication. With respect to this feature, the Examiner alleges:

Aldred teaches the Quality of service information characterizes the communication capabilities of the link. For each link type the link selection order, and defaults for the quality of service characteristics, are stored in the configuration profile (*profile information associated with a*

caller for communications). The quality of service profile contains the necessary information for the support system to decide whether and how compression and encryption should be used. The value in the profile entry is used to fill in the fields of a launch call, which is then executed (*profile information of the caller is used in establishing media communications*) (final Office Action, p. 7) (emphasis in original). Applicants respectfully disagree.

ALDRED et al. does not disclose or suggest that the configuration profile is or includes profile information associated with a caller of a media communication, as the Examiner alleges. Moreover, ALDRED et al. does not disclose or suggest that the quality of service profile is or includes profile information associated with a caller of a media communication, as the Examiner also appears to allege. If this rejection is maintained, Applicants again request that the Examiner specifically point out where ALDRED et al. discloses that the configuration profile or the quality of service profile includes profile information associated with a caller of a media communication and determining a requested quality of service based on the profile information associated with the caller, as would be required of ALDRED et al. based on the Examiner's interpretation of claim 6.

The disclosure of TUROCK does not remedy the above deficiency in the disclosure of ALDRED et al. For at least these additional reasons, Applicants submit that claim 6 is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Independent claims 7 and 10 recite features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants

submit that claims 7 and 10 are patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 7 and 10 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claim 8 depends from claim 7. Therefore, this claim is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 7. Accordingly, Applicants respectfully request that the rejection of claim 8 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claim 11 depends from claim 10. Therefore, this claim is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 10. Accordingly, Applicants respectfully request that the rejection of claim 11 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

*Rejection under 35 U.S.C. § 103(a) based on ALDRED et al.,
TUROCK, and RONEN et al.*

Claims 2-5 and 9 stand rejected under 35 U.S.C. § 103(a) based on ALDRED et al. in view of TUROCK, and further in view of RONEN et al. Applicants respectfully traverse this rejection.

Claims 2-5 depend from claim 1. While not acquiescing in the Examiner's rejection of claims 2-5, Applicants submit that the disclosure of RONEN et al. does not remedy the deficiencies in the disclosures of ALDRED et al. and TUROCK set forth above with respect to claim 1. For example, RONEN et al. does not disclose or suggest

determining an amount of resources in a hybrid network (which includes a circuit switched network and a packet switched network) necessary to obtain a requested quality of service and allocating necessary resources to provide the requested quality of service, as recited in claim 1. Therefore, Applicants submit that claims 2-5 are patentable over ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2-5 under 35 U.S.C. § 103(a) based on ALDRED et al., TUROCK, and RONEN et al. be reconsidered and withdrawn. Moreover, these claims are patentable over ALDRED et al., TUROCK, and RONEN et al. for reasons of their own.

For example, claim 2 recites creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network and transmitting the bill detail record to a call server connection to the hybrid network. ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, ALDRED et al., TUROCK, and RONEN et al. do not disclose or suggest creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network. The Examiner admits that ALDRED et al. and TUROCK do not disclose this feature (final Office Action, p. 8). The Examiner appears to rely on Fig. 1 of RONEN et al. and RONEN et al.'s alleged disclosure that "charges for all such transactions are accumulated by a transaction server (109) and stored in an account on an associated database (110) identified with the IP address of the requesting

terminal" for allegedly disclosing the above feature of claim 2 (final Office Action, pp. 8-9). Applicants respectfully disagree with the Examiner's interpretation of RONEN et al.

Fig. 1 of RONEN et al. depicts a network that includes centralized billing functionality for transactions conducted by a user through an Internet Access Provider to one of a plurality of different Internet Service Providers (col. 3, lines 7-12). Neither this figure of RONEN et al. nor the description thereof discloses or suggests creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network, as recited in claim 2.

RONEN et al. discloses, as the Examiner alleges, that charges for transactions are accumulated by a transaction server 109 and stored in an account on an associated database 110 identified with the IP address of the requesting terminal (Abstract). RONEN et al. does not disclose or suggest that the IP address of the requesting terminal corresponds to or includes information indicative of a requested quality of service on a hybrid network. Applicants submit that storing an IP address of a requesting terminal is not equivalent to creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network, as recited in claim 2.

For at least these additional reasons, Applicants submit that claim 2 is patentable over ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 2 under 35 U.S.C. § 103(a) based on ALDRED et al., TUROCK, and RONEN et al. be reconsidered and withdrawn.

Claim 9 depends from claim 7. While not acquiescing in the Examiner's rejection of claim 9, Applicants submit that the disclosure of RONEN et al. does not remedy the

deficiencies in the disclosures of ALDRED et al. and TUROCK set forth above with respect to claim 7. Therefore, Applicants submit that claim 9 is patentable over ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 7. Accordingly, Applicants respectfully request that the rejection of claim 9 under 35 U.S.C. § 103(a) based on ALDRED et al., TUROCK, and RONEN et al. be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome the pending rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY & HARRITY, LLP

By: /Russell O. Paige, Reg. No. 40,758/
Russell O. Paige
Registration No. 40,758

Date: March 6, 2009

11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 25537